

Office of Chief Counsel  
Internal Revenue Service  
**Memorandum**

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to: Samuel Berman  
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subject: Fallen Firefighters Assistance Act Issue

This Chief Counsel Advice responds to your request for assistance. This advice may not be used or cited as precedent.

ISSUE

Are donations to an organization described in section 2 of the Fallen Firefighters Assistance Tax Clarification Act of 2006 (Firefighters Act) charitable contributions within the meaning of section 170?

CONCLUSION

Yes. Legislative history states that donations to an organization described in section 2 of the Firefighters Act are intended by Congress to be charitable contributions within the meaning of section 170.

### FACTS

On October 26, 2006, five U.S. Forest Service firefighters were killed in the line of duty as a result of a fire in southern California. A charitable organization received donations from the public that were intended for the families of the fallen firefighters.

### LAW AND ANALYSIS

Contributions to section 501(c)(3) organizations are generally tax deductible. However, contributions to a charitable organization that are earmarked for the benefit of an individual are generally not deductible under § 170. See, e.g., Rev. Rul. 62-113, 1962-2 C.B. 10, 11.

On December 21, 2006, the President signed legislation that clarified the treatment of payments by charitable organizations described in section 509(a)(1) or (2) with respect to those firefighters who died as a result of the Esperanza Incident fire as “exempt payments,” *i.e.*, payments “related to the purpose or function constituting the basis for such organization’s exemption under section 501.” Sec. 2 of the Firefighters Act, Pub. L. 109-445.

Although the language of the Firefighters Act does not address the deductibility of payments made to a charitable organization pursuant to the Act, the legislative history makes clear that Congress intended such payments to be treated as charitable contributions under § 170. See 152 CONG. REC. H9300 (daily ed. Dec. 8, 2006) (statement of Rep. Lewis); 152 CONG. REC. S11742 (daily ed. Dec. 8, 2006) (statement of Sen. Feinstein).

### CASE DEVELOPMENT, HAZARDS AND OTHER CONSIDERATIONS

None.

Please call Karin G. Gross (202) 622-5020 if you have any further questions.